



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

New Mexico State Office
1474 Rodeo Road
P.O. Box 27115
Santa Fe, New Mexico 87502-0115
www.nm.blm.gov



In Reply Refer To:
3100 (921)

December 21, 2007

Dear New Mexico Oil and Gas Operator(s):

As you are aware, there has been an increased awareness and concern with 'split estate' issues – those situations where the surface owner is not also the mineral owner. In the last few years, there has been an increasing emphasis to ensure that surface owners are promptly notified of any activities that are proposed to occur on their lands.

In 2007, the Legislature of the State of New Mexico passed the Surface Owners Protection Act. This Act requires operators to:

- provide the surface owner, at least 5 business days notice prior to initial entry upon the land for activities that do not disturb the surface; and
- provide at least 30 days notice prior to conducting actual oil and gas operations.

Through Section 1835 of the Energy Policy Act of 2005 (43 U.S.C. 15801), Congress directed the Secretary of the Interior to review current policies and practices with respect to management of Federal subsurface oil and gas development activities and their effects on the privately-owned surface. The Split Estate Report to Congress, submitted in December 2006, documents the findings resulting from consultation on the split estate issue with affected private surface owners, the oil and gas industry, and other interested parties.

The BLM has issued instructions to implement policy changes to ensure that surface owners are informed of their rights and responsibilities when the minerals under their surface are leased. Following is a list of the new policies related to split estate:

- The BLM has issued a brochure entitled, "Split Estate: Rights, Responsibilities, and Opportunities." (The brochure has been posted on our National Web page, at www.blm.gov/bmp/Split_Estate.htm.)

Attachment 1-1

- Field Offices (FOs) will initiate outreach efforts to split-estate surface owners during the scoping process for land use plans to ensure the fullest involvement of the surface owners in the decision-making process for all planning documents addressing split-estate lands where there is a potential for mineral leasing.
- The Split Estate Brochure will be made available at scoping/planning meetings.
- The FOs will meet and/or contact local government officials prior to new planning starts to develop additional ways of informing and involving split estate surface owners in the land use planning process.
- All legal notices and public outreach materials announcing the initiation of land use plans should include a statement that the “plan decisions will address management of split-estate minerals” when this is the case.

In addition, we are aware of the fact that surface owners want to be informed when Federal minerals under their surface have been nominated for leasing. To that end, we are implementing the enclosed Notice to Lessees (NTL). We announced this policy at the New Mexico Federal Competitive Oil and Gas Lease Sale conducted on October 17, 2007.

Below is a summary of what the NTL will address:

- Effective immediately, when you submit an expression of interest in New Mexico, you must provide the BLM with the names and addresses of the surface owner(s), of those lands where the Federal Government is not the surface owner (this does not include lands where another Federal agency, such as the United States Forest Service or the Bureau of Reclamation, manages the surface).
- The New Mexico State Office will then contact the surface owners and notify them of the expression of interest and the date the oil and gas rights will be offered for competitive bidding. The BLM will provide the surface owners with our Web address, so they may obtain additional information related to the oil and gas leasing process, the imposition of any special stipulations on that lease parcel, Federal and State regulations, and Best Management Practices.
- After the lease sale has occurred, we will post the results on our Web site. The surface owner may access our Web site to learn the results of the lease sale.

If you have any questions or need further information, contact Gloria Baca, Land Law Examiner, Division of Minerals, at (505) 438-7566.

Sincerely,

/s/ Linda S. C. Rundell
Linda S. C. Rundell
State Director

Enclosure

**Notice to Lessees (NTL) and Operators of Onshore Federal Oil and Gas Leases within the
State of New Mexico**
New Mexico State Office
NTL-2007-01

Implementation of the Requirement to Provide Surface Owner Information for Lease Sale
Expressions of Interest

Introduction

A ‘split estate’ situation occurs when the owner of the land surface and the owner of the mineral rights are different. The development of this phenomenon may be complex, but is primarily due to the Stock-Raising Homestead Act of 1916 (39 Stat. 864; 43 U.S.C. 299), which provided that all homestead patents under its provisions contain a reservation to the United States of all coal and other minerals, “. . . together with the right to prospect for, mine and remove the same; also that the coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal.” (Regulations at 43 CFR 3814.)

Over the past several years, there has been an increasing recognition that surface owners, as a courtesy, should be informed of the potential leasing and development of the severed mineral rights. In 2007, the Legislature of the State of New Mexico passed the Surface Owners Protection Act, which requires operators to: provide the surface owner at least 5 business days notice prior to initial entry upon the land for activities that do not disturb the surface. And, to provide at least 30 days notice prior to conducting actual oil and gas operations. Many other states have either already implemented similar legislation, or plan to do so.

Implementation

At the New Mexico Federal Competitive Oil and Gas Lease Sale conducted on October 17, 2007, the BLM announced the implementation of this policy. Effective immediately, you must provide the BLM with the names and addresses of the surface owner(s), of those lands where the Federal Government is not the surface owner (this does not include lands where another Federal agency, such as the United States Forest Service or the Bureau of Reclamation, manages the surface).

The New Mexico State Office will then contact the surface owners and notify them of the expression of interest and the date the oil and gas rights will be offered for competitive bidding. The BLM will provide the surface owners with our web address, so they may obtain additional information related to the oil and gas leasing process, the imposition of any special stipulations on that lease parcel, Federal and State regulations, and Best Management Practices.

The surface owner(s) may elect to protest the leasing of the minerals underlying their surface. If the BLM receives a protest, the parcel will remain on the lease sale; however, the BLM will

resolve any protests prior to issuing an oil and gas lease for that parcel. If the protest is upheld, the BLM will return the payments received from the successful bidder for that parcel.

After the lease sale has occurred, the BLM will post the results on our website. The surface owner may access the BLM's website to learn the results of the lease sale.

State Contact

If you have any questions or need further information, contact Gloria Baca, Land Law Examiner, Division of Minerals, at (505) 438-7566.